

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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FIRST WORLD LIMITED, a United Kingdom  
registered company, *et al.*,

Plaintiffs,

v.

MIBC HOLDINGS, LTD, a Nevada  
Corporation, *et al.*,

Defendants.

Case No. 2:18-cv-1997-KJD-VCF

**ORDER**

There are two motions pending before the Court. The first is a motion to compel arbitration (ECF No. 17) filed by defendant, MIBC Holdings, LTD. Plaintiff, First World Limited responded (ECF No. 18), and MIBC Holdings replied (ECF No. 20). Next is a motion for summary judgment (ECF No. 19) filed by plaintiff First World Limited, to which MIBC Holdings responded (ECF No. 22), and First World replied (ECF No. 23). Having reviewed the parties' filings, the Court finds that they agreed to arbitrate any dispute arising out of their agreements in a March 2018 Memorandum of Understanding. Because the parties agreed to arbitrate and that agreement applies to First World's pending causes of action, the Court compels this case to arbitration and denies First World's competing motion for summary judgment (ECF No. 19) as moot.

**I. Background**

In this breach of contract case, First World Limited and its sister company, Rincon Blue Water, LLC, seek accounting and recovery of \$450,000 that it loaned to MIBC Holdings. First World intended the loan to start the early financing on a world-class resort and casino in Puerto Rico. Compl. 5, ECF No. 1. The parties memorialized their agreement in a memorandum of

1 understanding shortly thereafter. Id. at 6. The loan was to mature on September 23, 2018,<sup>1</sup> and  
 2 MIBC Holdings executed a promissory note to that effect. Id. It also executed a Security  
 3 Agreement and assigned 34,723,935 shares of co-defendant Global Payout Inc.’s stock as  
 4 collateral. Id. First World claims that MIBC Holdings has breached the parties’ agreements and  
 5 has converted its \$450,000. This suit followed.

6 Relevant here, the memorandum of understanding included an arbitration provision that  
 7 covered “dispute[s] concerning any aspect” of the parties’ agreement. Memo. of Understanding  
 8 5, ECF No. 1-1 (“MOU”). The arbitration provision identified the International Chamber of  
 9 Commerce as forum for any potential arbitration and elected to apply Nevada law. The  
 10 arbitration agreement provided,

11 In the event of a dispute concerning any aspect of this Agreement,  
 12 including breach of the Agreement or claim of breach thereof, the  
 13 Parties agree to have the matter arbitrated under the International  
 14 Chamber of Commerce (ICC) rules of conciliation and arbitration.  
 The Jurisdiction and governing law will be Nevada.

15 Id. Each of the parties signed the memorandum of understanding, and there is no indication from  
 16 the document itself that any party objected to the arbitration provision.

17 Shortly after First World filed its complaint, MIBC Holdings moved to enforce the  
 18 arbitration agreement. First World opposes the arbitration agreement and has moved for  
 19 summary judgment on each of its claims.

## 20 **II. Legal Standard**

21 The Federal Arbitration Act (FAA) created a clear federal policy favoring arbitration. See  
 22 9 U.S.C. §§ 1–16; Southland Corp. v. Keating, 465 U.S. 1, 10 (1984). It ensures that a written  
 23 agreement to arbitrate is “valid, irrevocable, and enforceable” subject to normal contract  
 24 principles of revocability. 9 U.S.C. § 2. Any doubts concerning the scope of arbitral issues  
 25 should be resolved in favor of arbitration. Moses H. Cone Mem’l Hosp. v. Mercury Const. Corp.,  
 26 460 U.S. 1, 24–25 (1983). And once a court determines there exists a valid arbitration agreement

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 28 <sup>1</sup> The complaint states that the loan would mature on September 23, 2013. Given that the parties did not  
 meet until March of 2018, the Court assumes for the purposes of this order that the maturity date of the loan was  
 September 23, 2018.

1 that agreement should be rigorously enforced. See Dean Witter Reynolds v. Byrd, 470 U.S. 213,  
2 218, 221 (1985).

3 The Court resolves any doubt regarding the arbitrability of a case in favor of compelling  
4 arbitration. That is not to say that the Court may unilaterally compel parties to arbitrate their  
5 dispute. Howsam v. Dean Witter Reynolds, Inc., 537 U.S. 79, 83 (2002) (despite the “liberal  
6 federal policy favoring arbitration,” there is a clear exception to the policy when parties have not  
7 submitted a particular dispute to arbitration). To the contrary, the parties must present a valid  
8 agreement to arbitrate their dispute, and the arbitration provision must encompass the parties’  
9 claims. Id. at 84; Cox v. Ocean View Hotel Corp., 533 F.3d 1114, 1120–21 (9th Cir. 2008). If a  
10 party meets both of those prongs, the Court will compel the case to arbitration.

### 11 **III. Discussion**

12 Arbitration is appropriate here as First World and MIBC Holdings’ memorandum of  
13 understanding contemplated submitting these very claims to arbitration. However, First World  
14 argues that the memorandum of understanding is not enforceable because it was not a contract,  
15 but merely an agreement to agree on a future contract. Alternatively, First World argues that  
16 even if the memorandum of understanding was an enforceable agreement, the language of the  
17 arbitration agreement was too ambiguous to enforce.

18 The memorandum of understanding is an enforceable agreement. The entire point of the  
19 parties’ memorandum of understanding was to govern their conduct throughout their transaction.  
20 As such, the agreement set out several vital aspects of the parties’ future course of dealing apart  
21 from the arbitration agreement, including the proper use of the First World’s \$450,000 loan  
22 (MOU at 1–2), the ownership percentages of the different entities (id. at 2–3), the acceptable  
23 investments upon receipt of a letter of credit (id. at 3), and monthly distributions between the  
24 entities (id. at 4). Ironically, these are the very clauses of the parties’ agreement that First World  
25 asks the Court to enforce in its complaint and motion for summary judgment. First World cannot  
26 simultaneously ask the Court to enforce portions of the memorandum of understanding it likes  
27 and omit the parts it does not. Either the memorandum of understanding is enforceable, or it is  
28 not. Elsewhere, First World asks the Court to find that it is enforceable. First World cannot have

1 it both ways. Accordingly, the memorandum of understanding is a valid and enforceable  
2 agreement between the parties.

3 Next, First World claims that the language in the arbitration provision is too vague to  
4 enforce. First World takes issue with one sentence of the arbitration provision, which states,  
5 “[t]he parties hereto agree herewith without further protest to settle, any claim or dispute arising  
6 out of this Agreement in a friendly cooperative manner by discussion.” MOU at 5. First World  
7 claims the sentence is too ambiguous to determine whether MIBC Holdings has complied. If the  
8 clause is not too ambiguous, First World argues, MIBC Holdings has not attempted to settle in a  
9 cooperative manner. Although not a model of clarity, that sentence does not muddle the clear and  
10 unambiguous arbitration provision that follows. There is nothing vague about two parties  
11 agreeing to “have [their] dispute arbitrated under the International Chamber of Commerce.”  
12 Therefore, the arbitration clause is not too ambiguous to enforce.

13 First World also argues that the arbitration provision is unenforceable because its election  
14 of the ICC for arbitration is inconsistent with its election of Nevada law as governing law. See  
15 MOU at 5 (agreeing to arbitration under the ICC’s rules while applying Nevada law). According  
16 to First World, the parties could not agree to ICC rules while also agreeing to apply Nevada law  
17 because the two are mutually exclusive. Not so. Parties often agree to arbitrate disputes using a  
18 preselected state’s substantive law, and arbitrators are well suited to apply that law. Indeed,  
19 arbitrators frequently apply state substantive law while applying the arbitral forum’s procedural  
20 rules. See Sovak v. Chugai Pharm. Co., 280 F.3d 1266, 1269–70 (9th Cir. 2002) (“we will  
21 interpret the choice-of-law clause as simply supplying state substantive, decisional law, and not  
22 state law rules for arbitration”). Therefore, the parties’ choice of arbitral forum and selection of  
23 Nevada substantive law does not render this arbitration provision ambiguous or impossible to  
24 enforce.

25 In sum, the parties’ memorandum of understanding—including the arbitration  
26 provision—is an enforceable agreement. The language of the provision does not render the  
27 agreement ambiguous or impossible to enforce. Therefore, given the presumption in favor of  
28 arbitration agreements (see AT&T Techs., Inc. v. Commc’ns Workers of Am., 475 U.S. 643, 650

1 (1986)), the Court will enforce the arbitration agreement in the parties' memorandum of  
2 understanding.

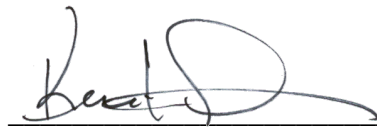
3 **IV. Conclusion**

4 Accordingly, IT IS HEREBY ORDERED that MIBC Holdings, LTD.'s motion to compel  
5 arbitration (ECF No. 17) is **GRANTED**.

6 IT IS FURTHER ORDERED that this case shall be **STAYED** pending the results of the  
7 parties' arbitration.

8 All other motions are denied as moot.

9 Dated this 10th day of August, 2020.

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12 Kent J. Dawson  
13 United States District Judge  
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